

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$4,155.97 for date of service, 12/24/01.
- b. The request was received on 06/21/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. UB-92
 - c. EOB(s)
 - d. Carrier's reconsideration audits dated 03/07/02, 04/10/02 and 05/15/02
 - e. Based on Commission Rule 133.307 (g), the Division notified the Requestor of the Requestor's requirement to submit two copies of additional documentation relevant to the fee dispute on 07/12/02. There is no response from the Requestor in the file.
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Based on Commission Rule 133.307 (g) (4), the Division notified the Requestor with a copy to the insurance carrier Austin Representative of the Requestor's requirement to submit two copies of additional documentation relevant to the fee dispute on 07/12/02. The Requestor did not submit additional information. There is a Carrier initial response but no Carrier 14 day response to this medical fee dispute reflected in Exhibit II of the file.
4. Notice of "No Carrier Sign Sheet" reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Noted on Table of Disputed Services
“Claim should be paid at 70% to 75% fair & reasonable per state guidelines”
2. Respondent: No response statement found in dispute packet.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 12/24/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$6,835.42 for services rendered on the above date in dispute.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$970.60 for services rendered on the above date in dispute.
5. Per the Requestor’s Table of Disputed Services, the amount in dispute is \$4,155.97 for services rendered on the above date in dispute.
6. The Carrier’s EOB(s) deny reimbursement as, “OPSR – M FAIR AND REASONABLE REIMBURSEMENT FOR THIS ENTIRE BILL IS MADE ON THE ‘OR SERVICE’ LINE ITEM.; M – THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011 (B).”

V. RATIONALE

Medical Review Division's rationale:

The Requestor has submitted UB-92s for ambulatory surgical services for date of service 12/24/01. The bill in dispute is broken down into operating room services, pharmacy supplies, recovery room charges, etc. However, the total is considered the facility fees (what the facility charged for providing the facility, equipment and supplies in order for the surgical procedure to be done).

Per Rule 133.304 (i), “When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall:

1. develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar

circumstances receive similar reimbursement;

2. explain and document the method it used to calculate the rate of pay, and apply this method consistently;
- 3 reference its method in the claim file; and
4. explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement.”

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), “.... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;”.

The Medical Review Division has to determine, based on the parties’ submission of information, which has provided the more persuasive evidence of fair and reasonable. As the Requestor, the health care provider has the burden to provide documentation that “...discusses, demonstrates, and justifies that the payment being sought is fair and reasonable rate of reimbursement....” pursuant to TWCC Rule 133.307 (3) (g) (D). The Requestor has not submitted any documentation to support the fee billed is fair and reasonable. Therefore, **no** additional reimbursement is recommended.

REFERENCES: The Texas Workers’ Compensation Act & Rules: Sec 413.011 (d); Rule 133.304 (i); Rule 133.307 (g) (3) (D); (j) (1) (F).

The above Findings and Decision are hereby issued this 6th day of March 2003.

Denise Terry
Medical Dispute Resolution Officer
Medical Review Division

DT/dt